



03 AUG 1999

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
B x PCT
Washington, D.C. 20231

Kevin L. Bastian
TOWNSEND, TOWNSEND & CREW
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111

In re Application of	:	
GONZALES, Frank J. et al	:	
U.S. Application No.: 09/308,080	:	DECISION ON
PCT No.: PCT/US97/04269	:	
Int. Filing Date: 19 March 1997	:	PETITION
Priority Date: 20 March 1996	:	
Attorney's Docket No.: 15280-271100US	:	UNDER 37 CFR 1.137(b)
For: METHODS AND COMPOSITIONS FOR	:	
DETECTING . . .	:	

This decision is in response to applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 C.F.R. 1.137(b)," filed 12 May 1999.

BACKGROUND

On 19 March 1997, applicants filed international application PCT/US97/04269 claiming priority to a United States patent application filed 20 March 1996.

On 16 October 1997, a Demand was filed with the International Preliminary Examination Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. Accordingly, the deadline for submission of a copy of the international application and payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 21 September 1998 (20 September 1998 was a Sunday).

On 12 May 1999, applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, the instant petition; a preliminary amendment; an unexecuted declaration; a check to pay the basic national fee; and authorization to charge Counsel's Deposit Account No. 20-1430 for any additional fees as required.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting to revive an application on the grounds of unintentional delay must be accompanied by (1) a proper reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Paying the basic national fee is the proper reply. The appropriate petition fee of \$1,210.00 as required by 37 CFR 1.17(m) has been submitted. Applicant's petition includes the statement, "the entire delay in filing the 35 U.S.C. 371(c) requirements from their due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The terminal disclaimer is not required in this application since it was filed after 08 June 1995.

Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

DECISION

In view of the discussion mentioned above, applicants' petition under 37 CFR 1.137(b) is **GRANTED**.

A review of the application shows that applicants have not provided an acceptable oath or declaration in compliance with 37 CFR 1.497(a). The declaration is not signed.

The application is being forwarded to the United States Designated/Elected Office for further processing including mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) for failing to provide an executed oath or declaration and surcharge for submitting the declaration more than 30 months from the earliest claimed priority date.



Leonard Smith
PCT Legal Examiner
PCT Legal Office

JT/l.S:jt



James Thomson
PCT Legal Attorney
PCT Legal Office

Tel: (703) 308-6457